

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DANIELLE ALSTON,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 18-2362
	:	
LT. BRIAN DOUGHERTY,	:	
	:	
Defendant.	:	

STATEMENT OF UNDISPUTED FACTS

Defendant, Lt. Brian Dougherty, hereby submits the following Statement of Undisputed Facts in connection with his Motion for Summary Judgment.

1. Defendant, Lt. Brian Dougherty, holds the position of Police Lieutenant in the 35th district of the Philadelphia Police Department. See Dep. of Def. Lt. Dougherty, p. 9:13-17, attached as Exhibit “1.”
2. Defendant supervised Plaintiff Sgt. Danielle Alston at the Police Department from approximately 2016, until her termination from employment in 2018. See Dep. of Plaintiff, p. 16:12-17, attached as Exhibit “2.”
3. Plaintiff began her training at the Philadelphia Police Academy in 2006, and was assigned to the 35th district of the Philadelphia Police Department in 2016. Id.
4. The surviving counts of Plaintiff’s lawsuit allege that Defendant subjected her to a discriminatory, hostile work environment on the basis of her sex and race, pursuant to 42 U.S.C. Section 1983. See the Court’s February 8, 2019 Order, Doc. Entry 11.
5. Plaintiff has not pled that she was subjected to an adverse employment action. See Am. Compl., Docket Entry 7.

6. In or around April 2017, Plaintiff and her coworker, Sgt. Gorman, had a dispute regarding Sgt. Gorman's attempt to call out of work for an upcoming shift. Plaintiff was unable to cover the shift for Sgt. Gorman, as the Police Department had previously approved her request for vacation time during that shift. See Dep. of Def. Lt. Dougherty, p. 41:8-23.
7. Thereafter, Sgt. Gorman reported to Def. that he and Plaintiff, his coworker, had a dispute regarding Gorman's inability to find coverage for the shift for which he wished to call out. See Dep. of Def. Lt. Dougherty, pp. 41:8-23; 48:14-23.
8. On or about September 16, 2017, Def. Lt. Dougherty received a time-dissolving photograph from his uncle via Snapchat, a social media smartphone application, depicting a hot dog placed between Defendant's uncle's upper thighs. See Dep. of Def. Lt. Dougherty, pp. 27:20-28:11.
9. Defendant took a screenshot of the aforesaid message with the intention of sharing it with his wife, who did not have access to Defendant's uncle's Snapchat account. See Dep. of Def. Lt. Dougherty, p. 29:4-9; see also Exhibit "3."
10. Defendant then accidentally forwarded the screenshot to Plaintiff, rather than his wife, as he and Plaintiff had been exchanging work-related text messages immediately prior thereto. See Dep. of Def. Lt. Dougherty, p. 30:5-23.
11. Minutes later, Defendant discovered that he had accidentally sent the photograph to Plaintiff. Defendant apologized both in-person and via text message for the error, and Plaintiff replied, via text message, "no problem, hilarious lol [sic.]" See Dep. of Def. Lt. Dougherty, pp. 34:34 -35:5.

12. For reasons unrelated to the text message, Plaintiff was later terminated for violation of Defendant's timekeeping and use of sick time policies. See Dep. of Plaintiff, p.46:15-19.

13. Although the Philadelphia Police Department has a well-established avenue for employees to report discrimination and have such reports investigated, Plaintiff never reported the alleged sex-based and race-based discrimination to Police Internal Affairs.

Respectfully Submitted,

CITY OF PHILADELPHIA
LAW DEPARTMENT

Date: February 6, 2020

BY: s/ Erica Kane
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	:	
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CERTIFICATE OF SERVICE

I hereby certify that on the date below, the foregoing Motion for Summary Judgment, Memorandum of Law and Proposed Order has been filed electronically and is available for viewing and downloading.

Respectfully Submitted,

CITY OF PHILADELPHIA
LAW DEPARTMENT

Date: <u>February 6, 2020</u>	BY: <u>s/ Erica Kane</u> Erica E. Kane, Esq. Assistant City Solicitor
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